

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:08-cr-062
Also Case No. 3:09-cv-396

-vs- : District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

DAVID W. HALL,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATIONS ON DEFENDANT'S
RULE 60(B) MOTION**

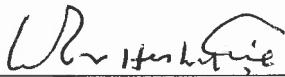
This case is before the Court on Defendant David W. Hall's Motion pursuant to Fed. R. Civ. P. 60(b) (Doc. No. 50). On October 15, 2010, Magistrate Judge Michael Merz, to whom the case had been referred, recommended that the Motion be granted (Report and Recommendations, Doc. No. 51). The United States filed no objections, but Defendant objected that he should be granted a certificate of appealability (Doc. No. 52).

This particular Report does not make a recommendation about a certificate of appealability. Magistrate Judge Merz recommended denial of a certificate of appealability in a prior Report (Doc. No. 43) which the Court adopted over Defendant's Objections (Doc. No. 45). There being no objections to the actual content of the most recent Report, it is adopted and the Judgment of March 5, 2010, is ordered VACATED and immediately re-entered by the Clerk who is also ordered to send Defendant a copy of the Decision and Entry of March 5, 2010.

Defendant is hereby notified that he has thirty days from the entry of the new judgment to file in this Court a notice of appeal to the Sixth Circuit. Since this Court has already denied him a

certificate of appealability, he must file a motion for a certificate in the Court of Appeals.

November 17, 2010.



Walter Herbert Rice
United States District Judge